

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of	)	
	)	
A La Carte and Themed-Tier Programming	)	
And Pricing Options for Programming	)	MB Docket No. 04-207
Distribution on Cable Television and	)	
Direct Broadcast Satellite Systems	)	

**COMMENTS OF THE RELIGIOUS VOICES IN BROADCASTING**

Religious Voices in Broadcasting ("RVB") submits these comments in response to the Commission's Public Notice, DA 04-1454, released May 25, 2004, seeking information regarding *a la carte* and "themed-tier" carriage of programming services on cable television and direct broadcast satellite systems. RVB is a group of full-power non-major network affiliated broadcasters dedicated to spiritual, family-friendly and community service programming appealing to audiences seeking a source of wholesome local entertainment, and informational and educational programs. For the record, RVB does not explicitly endorse *a la carte* or themed-tier programming, and we have some concerns, the most important of which is retaining "must-carry" requirements for local broadcast stations in any programming service offered by cable.

If the basic-tier of programming is redefined to establish a programming service that offers *a la carte*, must-carry must be applied to the *a la carte* service. Non-network affiliated broadcast stations already face increasing competition for advertising revenues in the current marketplace. Without the assurance of must-carry, these revenues would

decline and lead to the eventual extinction of small and independent broadcasters that service niche communities with important local and diverse programming.

A. Must Carry of RVB Broadcast Stations.

Must Carry has already been established as necessary to preserve the benefits of free-over-the-air broadcast television. Congress' findings in the 1992 Cable Act reflected a concentrated cable industry that was using its power, through horizontal and vertical integration, to limit cable access for non-major network affiliated programmers. Cable had replaced free-over-the-air broadcast television in over 60% of households as the primary provider of video programming--a number that has since risen to 68%. Since broadcasters rely on advertising rather than subscriber fees for revenue, attaining cable carriage became crucial to ensuring a broadcaster's economic viability. However, cable operators refused to carry broadcasters beyond the three major networks. Congress intervened by mandating that cable operators carry all the local broadcast stations in their market up to one-third of their capacity, stating that there was a substantial government interest in preserving the valuable local news and public affairs programming broadcasters provided. It should be noted that at the time, cable and the three major broadcast networks opposed must-carry requirements in an effort to control competition.

In 1997, the Supreme Court affirmed Congress' findings that must-carry served three interrelated, important government interests: (1) preserving the benefits of free, over-the-air local broadcast television, (2) promoting the widespread dissemination of information from a multiplicity of sources, and (3) promoting fair competition in the television programming market. The continued trend of consolidation in the television, cable and satellite industries since the inception of must-carry reiterates its importance for

smaller independent broadcasters to survive as major media conglomerates continue to expand.

B. Adverse Effects of *A La Carte* Offerings on RVB Stations Without a Must-Carry Requirement.

RVB stations typically air the type of niche programming that would be most at risk from an *a la carte* structure that did not also require the mandatory carriage of local broadcast stations. Offering channels on an *a la carte* basis without a must carry requirement limits a broadcaster's audience share to those viewers willing to pay a separate fee to receive particular stations. Reducing a broadcaster's audience share affects the advertising revenues available for operating a local broadcast station and hinders the ability of a station to continue offering quality local programming to its viewers. The logical result would be a decline in small and independent broadcasters that air programming to niche audiences. Such an effect would run contrary to the Commission's fundamental mandate of promoting localism, diversity and competition.

Congress has already spoken of the need to preserve free local over-the-air broadcast stations, and it would not be in the public interest to establish an *a la carte* structure that undermines must-carry and risks losing these stations. Viewers have come to rely on local broadcast stations for emergency and local news and information, public affairs programming, children's programming, community calendars, community outreach, local sports and niche programming. Without safeguards to ensure must-carry, local broadcasters would experience difficulties in obtaining carriage similar to the period prior to the enactment of the 1992 Cable Act, but at a heightened level considering the consolidation in today's industries.

WLMB-TV in the Toledo, Ohio DMA experienced difficulty obtaining carriage from all forty-two cable operators in that market, even after must-carry was enacted. Only by threatening to report cable operators to the FCC did WLMB ultimately obtain carriage, but not before one cable provider dismissed WLMB because he “didn’t like their values”. Denying carriage of local broadcast stations was a practice that continued even after the must-carry requirement was in place, and it will likely continue if *a la carte* is implemented without adequate safeguards.

For example, KSCE-TV in El Paso, Texas is a non-profit entity that airs religious, bilingual and multicultural programming to its local community. The station has expended over \$350,000 in preparation for the digital transition and continues to broadcast in both analog and digital. The costs of operating dual signals has placed a significant burden on the station's resources and must-carry has been their only means for ensuring sufficient viewership—KSCE only reached about 30% of the El Paso community prior to must-carry. Thus, *a la carte* without must-carry would lead to the extinction of the ethnic, religious and niche programming KSCE provides to El Paso.

C. Diversity of Programming Could Be Harmed With Themed-Tier Offerings That Do Not Require Must-Carry of Broadcast Stations on Cable’s Basic-Tier of Programming.

Section 623 of the 1992 Cable Act requires cable operators to carry the signal of all local television broadcast stations on the basic-tier of programming.<sup>1</sup> The provision is intended to promote the public availability of a diversity of views and information through cable television and other video distribution media.<sup>2</sup> “Assuring that the public

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<sup>1</sup> 47 U.S.C. § 623(b)(7)(a)

<sup>2</sup> Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, §2(b)(1), 106 Stat. §1460 (Oct. 5, 1992)

has access to a multiplicity of information sources is a governmental purpose of the highest order, for it promotes values central to the First Amendment.”<sup>3</sup>

A cable model that encourages subscribers to pre-select programming, including local broadcast channels they are willing to pay for, is harmful to the public absent a must-carry requirement because it limits the diversity of programming viewers will receive. To exclude broadcast stations from cable’s “basic-tier”, or to redefine the “basic-tier” in a manner inconsistent with §623, would undercut the local programming diversity and broadcast choices necessary to preserve balanced and diverse perspectives. Moreover, viewers would have limited choices in receiving local news and information from a multiplicity of sources, and would be confined by those channels they pre-select. Once a local broadcast channel secures a core audience, by eliminating independently owned broadcasters as competitors, it has little incentive to develop new or innovative programming. The First Amendment values associated with Congress’ must-carry and related provisions will be harmed with themed tier offerings that do not require carriage of local broadcast signals on the basic-tier.

RVB stations provide families with a wholesome programming alternative to mainstream television, often serving niche markets with local spiritual, ethnic and independent programming. Arguably, religious broadcasters provide more local programming than other broadcasters in their communities because they are in constant contact with area churches, community service organizations and local events. WGGSTV in Greenville, South Carolina airs a nightly 2-hour show featuring local pastors, singers, historians and residents of the area. Viewers have access to the show’s co-hosts

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<sup>3</sup> *Time Warner Entm’t Co. v. FCC*, 93 F.3d 957, 976 (D.C. Cir. 1996)(quoting *Turner Broad. Sys., Inc. v. FCC*, 512 U.S. 622, 663 (1994))

through a call in number where they can ask questions or seek guidance on issues relating to that evening's program topic. WLLA-TV in Kalamazoo, Michigan is devoted to airing local football and basketball games in conjunction with Western Michigan University, and plans to air a new program that includes interviews with student athletes and replays game highlights. WLMB's *La Voz Christiana* (The Christian Voice) is the only Spanish language program broadcasted in the entire Toledo, Ohio viewing area. Moreover, WLMB's community bulletin board is a daily ninety-second listing designed to inform people in the community of family-friendly events taking place in the area.

RVB's ethnic, family-friendly, community focused approach to television programming contributes to the important diversity of viewpoints and localism the government highly values. The continued availability of these programs is dependent on the inclusion of must-carry provisions in an *a la carte* or themed tier offering structure.

D. RVB Broadcasters Do Not Contribute to the Indecent Programming Found on Television and are Willing to Work With Cable Operators to Allow Flexibility in Regulating Inappropriate Programming Entering Homes.

Cable subscribers are already afforded various means of blocking unwanted programming. Current technology offers options including cable-lock boxes and the V-Chip for preventing access to unwanted channels. Section 640 of the Communications Act requires a cable operator to block the programming of each channel at a subscriber's requests.<sup>4</sup> Cable subscribers may also obtain a lock-box from the local cable operator if they wish to selectively block unwanted channels. Finally, subscribers may purchase televisions with V-Chips that enable them to block television programs based on a particular rating assigned to the video programmer.

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<sup>4</sup> 47 U.S.C. § 640(a)

Today's digital cable technology has created set-top boxes that allow you to block specific programming based on channel, time and date, rating or title information provided by the cable operator. Parents can scroll through the menu of channels and select those they deem inappropriate for their children. By entering a self-selected four-digit code, access to specific channels can be achieved by removing them from the menu listing. Each television may be coded individually and the self-selected code may be changed at the parent's discretion. Parents must use their four-digit code to unblock these channels for their personal viewing. This system can be applied across the board to pay-per-view, video-on-demand and standard cable channels.

The flexibility of having access to all cable channels, combined with the control to limit access to specific channels deemed inappropriate for certain household viewers, gives consumers the power regulate the indecent programming entering their homes without sacrificing the diversity of available programming or undermining must-carry. Empowering viewers with the ability to block channels they consider offensive will encourage evangelicals, families with children and those who currently forgo cable due to programming concerns, to reconsider this service. A coordinated campaign between cable and broadcasters could result in solutions that do not contribute to a loss of diversity, or a restructuring of must-carry, by eliminating complete access of particular channels or forcing consumers to pre-select their viewing preferences. RVB members are engaged with the broadcast, pro-family and cable industries to work on developing an educational campaign on the technology available to block programming choices for subscribers.

E. Rising Cable Rates Are Not Relevant to the Mandatory Carriage Of Local Broadcast Stations.

Concerns regarding the increasing cost of retail cable service are not applicable to broadcasters. Cable operators are required to carry broadcast stations on their basic-tier and broadcasters do not receive compensation if they elect must-carry rather than retransmission consent. RVB broadcasters all elect must-carry for the pass through of their signals and contribute to the continued availability of free-over-the-air broadcast television. The diverse local programming our stations offer is consistent with Congress' intent to provide programming from a multiplicity of sources and the FCC's mandate of promoting a diversity of viewpoints in the media marketplace. Moreover, it does not contribute to the escalating cost of cable resulting from higher programming fees.

F. Conclusion

The 1992 Cable Act's must-carry requirement has been a crucial component to ensuring the continued carriage of smaller, independent stations by cable operators. Offering broadcasters on an *a la carte* or themed-tier basis, or redefining a cable operator's basic-tier of programming without must-carry contravenes laws implemented by the 1992 Cable Act and undermines the many public benefits these stations provide. Limiting the amount of diverse programming available to cable subscribers is not in the public interest and should be prohibited without adequate safeguards for ensuring carriage of local broadcast stations. Enclosed for your review is a listing of the types of locally focused, community programming that would be lost if RVB stations were not guaranteed carriage by their local cable operator.

Respectfully submitted,



## RELIGIOUS VOICES IN BROADCASTING

By: /s/ Jerry Rose\_\_\_\_\_

Dated: July 17, 2004

### Religious Voice in Broadcasting Local Programming

**Jerry Rose:** Localism and being a good neighbor is paramount to the role Total Living Network (TLN) plays in Chicago, Rockford, San Francisco and soon-to-be Las Vegas. All of TLN's stations produce and air weekly programs of local interests and provide a forum for the distribution of local information to the Christian community. In Chicago, TLN produces approximately 700 hours of local programming each year, including a half-hour daily talk show hosted by Jerry Rose, a half-hour weekly program for women and *TLN Live*, a weekly prime-time program produced live with studio guests and viewer calls. TLN's monthly *Newsmakers* program covers current events of importance to local Chicago communities. The show recently aired programming on the battle to establish a Chicago Casino, highlighting the views of both Governor Rod Blagojevich and Mayor Richard Daley.

TLN recently completed its work on *Inspiration Sensation*, a weekly series of live one-hour programs showcasing local Chicago area youth competing for a recording contract and to be the "Next Big Voice in Christian Music". The programs were produced each week before a filled to capacity studio audience. Contestants were found through a grass-roots effort in Chicago area churches where hundreds of young people between the ages of 16 and 25 auditioned for a chance to be a finalist on the live telecasts.

On May 22, 2004, TLN's San Francisco station was honored with an Emmy Award for a feature they produced on the consequences of teenage drinking. Moreover, TLN is a key

outlet for locally produced programming by area churches and airs community pastors that deliver messages ranging from marriage advice to news of upcoming Christian events. TLN is a major sponsor of the world's largest gospel concert event, *Gospel Fest*, which is held annually in Chicago. This past June, TLN sponsored the "Youth Tent" which featured three Chicago Public High Schools performing in the High School Gospel Choir Night.

TLN also co-sponsors many events throughout the year and provides free on-air publicity. They also help underwrite the cost of these events and encourage community activism by providing studios and meeting rooms to several area groups and churches free of charge. TLN recently co-sponsored and hosted events including the 106.7 WYLL Pastor's Luncheon, the Legal Seminar for Churches, the World Vision local pastors event to promote a cure for AIDS/HIV in Africa and the Aurora National Day of Prayer event.

**Jamey Schmitz:** WLMB-TV 40 in Toledo, Ohio provides local Toledo communities with several local religious programs including *Find A Local Church*, *La Voz Christiana*, *Pastor's Point* and *Community Bulletin Board*. Find a Local Church is currently in its 4<sup>th</sup> year of production and WLMB produces a new weekly half-hour episode that highlights six different local places of worship within the WLMB viewing area. This program won the National Religious Broadcasters 2001 People's Choice Award for the best original television program.

*La Voz Christiana* (The Christian Voice) is in its 5<sup>th</sup> year of continuous weekly production with WLMB airing a new half-hour episode each week that features messages from Spanish speaking religious leaders in the community. This program is the only Spanish language program broadcasts in the entire Toledo, Ohio viewing area. *Pastor's Point* is in its second year of production and new weekly episodes feature various local religious leaders in the community. The program is designed to give religious leaders, who would typically lack the funds, knowledge or congregation, an opportunity to share their message with the local audiences. The *Community Bulletin Board* is a daily 90 second community board designed to inform people about religious events taking place in the region. Since its inception in October 1998, WLMB has produced over 1,200 community bulletin boards.

**Kevin Bowers:** WTLW-TV 44 in Lima, Ohio broadcasts local high school sports to its community through programs including: *Touchdown Friday*- a news report on local high school football games, *Full Court Press*-a news report on local high school basketball games and *Sports Forum*-a weekly local sports talk show. The WTLW sports department covers schools in Allen, Auglaize, Hardin, Van Wert, Putnam, Hancock, Paulding, Mercer, Shelby and Logan counties. These high schools include Lima Senior, Lima Central Catholic, New Breman, Shawnee, Arlington, Carey, Kenton, Upper Scioto Valley and Waynesfield.

WTLW also produces *High School Quiz Bowl*, a weekly series featuring 16 area high school academic quizzing teams and *Holiday Music Festival*, featuring over 1,200 area youth from high school choirs including Allen East, Spencerville, Ottawa Glandorf,

Delphos St. John, Temple Christian, Bath, Elida and Wapakoneta. WTLW's programming includes *TFC Live*-a monthly series that addresses teen culture issues from a Christian perspective, like "What to do when Tragedy Strikes", "Standing up for one's Beliefs" and "Parent/Teen Relationships".

*Three Days of Praise* features local vocalists and has highlighted the work of Kelly Connor from Ada, The Trinity Quartet, Deb Coon from the Lima Community Church of the Nazarene, Jim Boedicker from the First Church of the Crossroads in Lima and Lynette Lopez from Leipsic.

*Ask the Pastor*, a live weekly show where viewers call in to have their questions answered by a local pastor recently covered issues relating to divorce, raising children, losing a loved one, life after death, sexual relations and Bible history questions. Guest hosts for the show were recruited from the community and callers were able to reach out to James Menke from the New Hope Christian Center in Lima, Jeff Phail of the Bethlehem Christian Union in Spencerville, Terry Porter of the Dupont Church of the Brethren in Dupont and Bob Green of the Calvary Chapel of Praise in Lima.

**Ken Mikesell:** Good Life Broadcasting (GLB) airs the programming of ten local ministries to various Orlando communities. GLB also airs approximately 12-15 community announcements per day at no charge to churches and non-profit organizations. The First Baptist Church in Daytona, First Baptist Oveido, Deeper Life Assembly, Green Pastures Ministries, Liberty Council and the Fellowship Baptist Church are among those that benefit from GLB's generosity. GLB regularly airs public service announcements for non-profit organizations including the United Way, Salvation Army, YMCA and local feeding ministries at no cost.

WTLG TV-52 in Orlando, Florida, produces several local programs per week. Recent topics have included highlights of the work done in local communities from organizations such as Campus Crusade for Christ, Wickliff Bible translators and New Tribes Missions--these are some of the largest ministries in the world which are headquartered in Orlando. WTLG also raises money for Destiny Assistance, a food shelter that feeds over 500 local families each week. In conjunction with Harvest Time International in Sanford, Florida, WTLG funds *Christmas Bags of JOY* to provide food and toys to over three thousand families in Central Florida.

WTLG aired and promoted the Easter Sunrise Service from Sea World in Florida with Kirk Cameron as the guest speaker. More than 4000 residents and visitors from around the world arrived for Easter service and the program was up-linked for distribution to other Christian stations. Among the types of programming offered are interviews with local community leaders including Rich Devoss, founder of Amway Corporations and owner of the Orlando Magic, to discuss his role as a Christian leader and his faith in God.

**Dr. James Thompson:** WGGS TV-16 in Greenville, South Carolina airs a two-hour live program five nights a week that features local pastors, singers and mission causes. Dr. Bill Diekman, Director of Missions from the Columbia Metro Association, recently

hosted *Baptist Care*, a two-hour program highlighting the work of Southern Baptists in South Carolina and around the world. During the *Joyful Sound* program, choir students from North Greenville College were invited to perform for their local community.

Many local religious leaders serve as co-hosts with Mr. Thompson to discuss issues important to the local South Carolina, western Georgia and western North Carolina communities. In a show entitled, *Home with a Heart*, guest-host Alex Richey, presents a moving documentary on homelessness in Liberty, South Carolina and highlights his organization's work in fixing up mobile homes for people in need. Pastor Tony Dena of Destiny Bible College was invited to speak about the college creating ten satellite schools to educate people through television.

**Bob D'Andrea:** WCLF-TV 22 and WHTN-TV 39 air approximately 70 hours of locally produced and original religious programming. *You and Me* is a daily 3-hour live program featuring Pastor Scott Young answering caller's questions and taking time to pray for personal problems and needs. *Homekeepers*, hosted by Arthelene Rippy, is a program dedicated to women who fill one of today's most vital roles in society...that of the home keeper. With each program, Arthelene and her guests provide interviews to inspire and inform women with recipes, crafts and helpful ideas for the homemaker.

*Bay Focus*, hosted by Darlene Greenlee, is produced in-house at the CTN studios. The new 30-minute program features ministries and events that are reaching Central Floridian communities with the gospel in unique and innovative ways. Darlene conducts news style interviews with Christian entertainers and local Godly men and women to keep the whole family entertained. Guests on Darlene's show include T.D. Jakes and Michael W. Smith, leaders of the local ministries that work to feed and support the needy people of Tampa Bay's inner cities.

*Set Free If You Want to Be*, hosted by Molly D'Andrea, is a powerful program designed to help those bound by sexual addiction and brokenness. The program, which features testimonies of those who have been delivered from sexual abuse and addiction air over 100 times a week locally, across America and in over 173 nations. Ms. D'Andrea also conducts seminars for local pastors and church leaders to guide them in ministry to homosexuals and people who have been sexually abused.

*It's All About You* is a unique program focusing on ordinary people in the local Tampa community doing extraordinary things. For example, on Mother's Day, the program featured ordinary moms who make their children a first priority and yield phenomenal results. Other programs have featured local citizens volunteering to teach others to read and volunteers who take time out of their everyday lives to serve their community.

